IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.448 OF 2004

Mrs.Anila Niranjan Kamodia ...Applicant

vs.

State of Maharashtra ...Respondent

Mr.A.P.Mundargi with Mr.A.H.H.Ponda for the Applicant
Ms S.D.Shinde, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JULY 12, 2005

JUDGMENT :

1. Heard learned Counsel for the Applicant and the learned A.P.P. for State. The applicant along with other accused is charged with commission of offence under Sections 498-A, 306 read with Section 34 of the Indian Penal Code. The Applicant filed an application for discharge which came to be rejected by the impugned Judgment and Order dated 14th September 2004.

2. F.I.R. was registered on 4th October 1995. The applicant is the mother-in-law of the deceased. The case of the prosecution is that dead body of the deceased was found in front of the open space of the building viz. Joothica Society where the deceased was staying in her matrimonial home.

3. The learned Counsel for the applicant submitted that there

was no material in the charge sheet against the Applicant and the statements of witnesses do not connect the Applicant with any offence. He invited my attention to the various statements and other material on record. He submitted that even if the statements of witnesses relied upon by the prosecution are taken as gospel truth, still no offence is made out under Section 498-A of the I.P.C. He pointed out that no overt act is attributed to the Applicant to justify the applicability of Section 306 of the I.P.C. He submitted that the learned Judge has relied upon the statements of witnesses viz. Deepa Desai and Urmi Kinariwala. He submitted that on plain reading of the said statements it is clear that even the said witnesses have not brought on record any material against the Applicant. The learned A.P.P. submitted that there is enough material on record to proceed against the Applicant.

4. I have considered the submissions. Reference will have to be made to the statements of various witnesses. The statement of father of the deceased has been recorded. However, he has died subsequently. Therefore, I have not considered the said statement. I am referring to the statements of material witnesses. The statement of mother of the deceased Anjana records that initially after her marriage her daughter was happy. However, after some time she noticed that her daughter was not happy. She has stated that when she visited her

matrimonial home, she was not treated properly by the in-laws of the deceased. While she came back the deceased also came along with her. Before the deceased left her matrimonial home, her bag was checked by the Applicant. The said witness has stated about the dispute between her daughter Bela and her husband. The statements of sisters of deceased may be of some relevance. One sister is Mrs.Deepa Desai. She has stated that some time after the marriage, the members of the family of the husband of the deceased started harassing the deceased. Later on in January 1995 harassment increased. She has stated that the members of the family of the husband of Bela were not talking to her. The statement of another sister of the deceased by name Urmi has been recorded. She has stated that the deceased used to complain to her that the Applicant was ill-treating her. According to her statement the Applicant was not allowing the deceased to have privacy with her husband and she was not allowing the deceased to go out with her husband. In the statement of the uncle of the deceased he has stated about harassment of the deceased by the hands of the members of the family of the husband of the deceased.

5. It is pertinent to note that Section 34 of the Indian Penal Code has been applied by the prosecution. The date of marriage of the deceased is 27th February 1994 and on 3rd October 1995 the deceased committed suicide. At the stage when application for discharge is considered by the Court, the

court is not required to do the job of sifting and weighing the evidence. The only question to be considered is whether there is some material to proceed against the Applicant. The probative value of material cannot be considered. After having gone through the statements of the witnesses, it is not possible to come to the conclusion that there is no material available to proceed against the Applicant. No case is made out for discharge.

6. Accordingly, Revision Application is rejected.

JUDGE